

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

MARC A. EARLEY,  
Plaintiff,  
v.  
KITCHEN STAFF ESP, et al.,  
Defendants.

Case No.: 2:23-cv-00085-RFB-VCF

**ORDER**  
(ECF No. 1)

On January 17, 2023, pro se plaintiff Marc Earley, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a complaint under 42 U.S.C. § 1983 and applied to proceed *in forma pauperis*. (ECF Nos. 1, 1-1). Plaintiff’s application to proceed *in forma pauperis* is incomplete because he didn’t include an inmate trust fund account statement for the previous six-month period with the application. Even if Plaintiff has not been at the NDOC facility a full six-month period, he must still submit both a financial certificate and an inmate account statement for the dates he has been at the facility.

The United States District Court for the District of Nevada must collect filing fees from parties initiating civil actions. 28 U.S.C. § 1914(a). The fee for filing a civil-rights action is \$402, which includes the \$350 filing fee and the \$52 administrative fee. *See id.* at § 1914(b). “Any person who is unable to prepay the fees in a civil case may apply to the court for leave to proceed *in forma pauperis*.” Nev. LSR 1-1. *In forma pauperis* status does not relieve an inmate of his or her obligation to pay the filing fee, it just means that the inmate can pay the fee in installments. *See* 28 U.S.C. § 1915(b). To apply for *in forma pauperis* status, the inmate must submit **all three** of the following documents to the Court: (1) a completed **Application to Proceed in Forma Pauperis for Inmate** (pages 1–3 of the Court’s form) that is properly signed by the inmate twice on page 3; (2) a completed **Financial Certificate** (page 4 of the Court’s form) that is properly signed by both the inmate and a prison or jail official; and (3) a copy of the **inmate’s prison or jail trust**

1 fund account statement for the previous six-month period. See 28 U.S.C.  
2 § 1915(a)(1)–(2); Nev. LSR 1-2.

3 IT IS THEREFORE ORDERED that the application to proceed *in forma pauperis*  
4 (ECF No. 1) is denied without prejudice.

5 IT IS FURTHER ORDERED that Plaintiff has **until March 27, 2023** to either pay  
6 the full \$402 filing fee or file a new fully complete application to proceed *in forma pauperis*  
7 with all three required documents: (1) a completed application with the inmate's two  
8 signatures on page 3, (2) a completed financial certificate that is signed both by the  
9 inmate and the prison or jail official, and (3) a copy of the inmate's trust fund account  
10 statement for the previous six-month period.

11 Plaintiff is cautioned that this action will be subject to dismissal without prejudice if  
12 he fails to timely comply with this order. A dismissal without prejudice allows Plaintiff to  
13 refile the case with the Court, under a new case number, when he can file a complete  
14 application to proceed *in forma pauperis* or pay the required filing fee.

15 The Clerk of the Court is directed to send Plaintiff Marc Earley the approved form  
16 application to proceed *in forma pauperis* for an inmate and instructions for the same and  
17 retain the complaint (ECF No. 1-1) but not file it at this time.

18 DATED THIS 26th day of January 2023.

19  
20 

21 UNITED STATES MAGISTRATE JUDGE  
22  
23  
24  
25  
26  
27  
28